

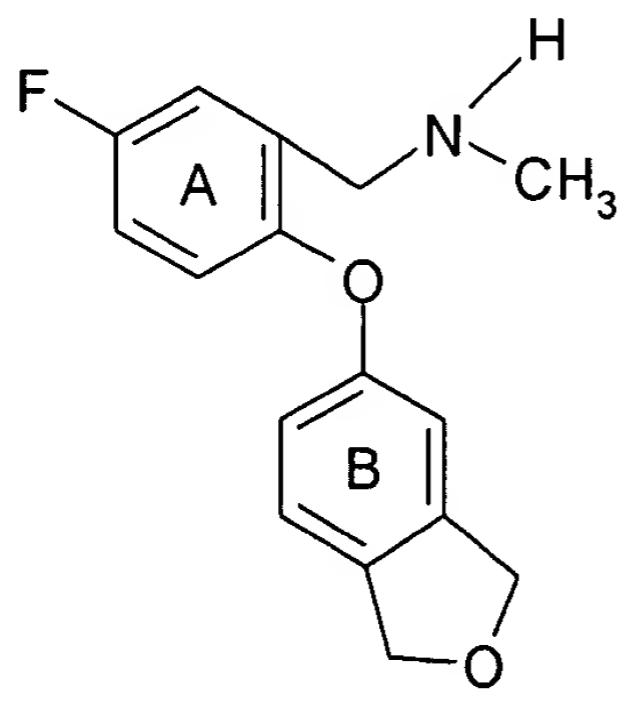
**REMARKS**

Claims 1 - 16 are now pending in the application. Claims 1, 4, 5, 6 and are currently amended. Claims 7, 8, 11 - 15 were withdrawn as a result of non-election and canceled. Claim 16 was withdrawn pending reinstatement based on the remarks below. Claims 2, 3 and 10 are original. A copy of the claims now pending in the application showing changes made to currently amended claims in accord with 37 CFR 1.121, as revised, has been provided.

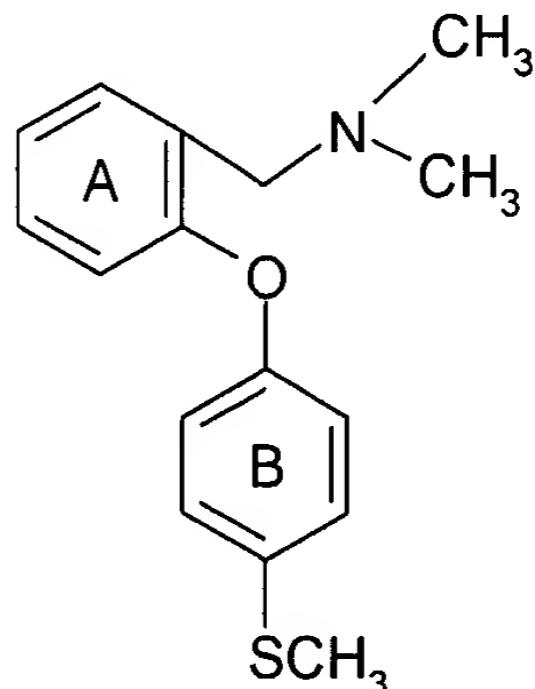
No new matter has been introduced by virtue of the amendments made herein. Accordingly, applicants respectfully request their entry. In view of the amendments made herein and the remarks below, applicants respectfully request reconsideration and withdrawal of the rejection set forth in the March 12, 2003 office action.

## Restriction Requirement

In the response to the Examiner's restriction requirement, mailed December 9<sup>th</sup>, 2002, applicants elected the compounds of Group I. Applicants also traversed the Examiner's requirement that the claims be restricted to a method for treating a single indication or condition. In the office action of March 12, 2003 the Examiner withdrew the foregoing requirement. In addition, in the response of December 9<sup>th</sup>, 2002, applicant added claim 16 specifically claiming the compounds of Examples 30 and 42, described on pages 40 and 42 of the original specification having the following formulae:

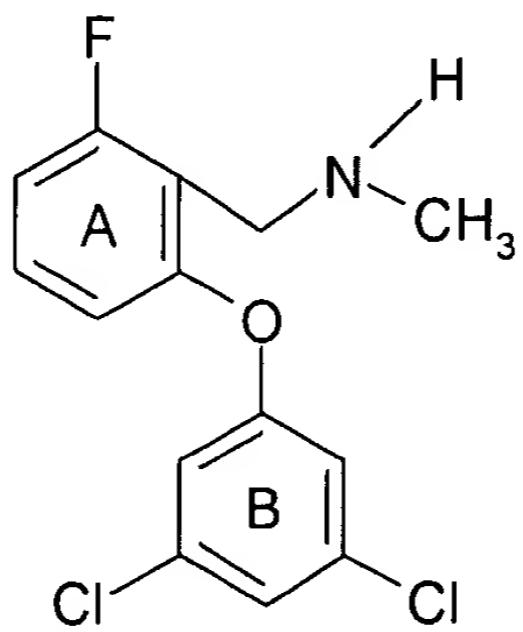


or

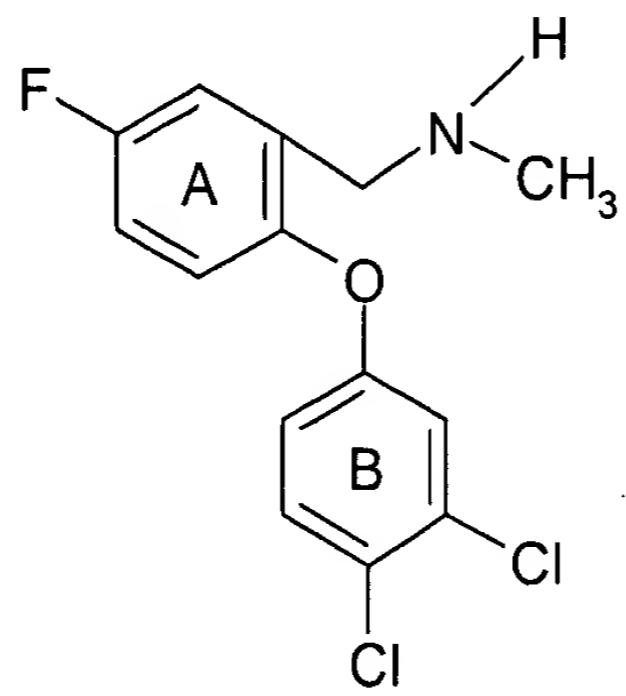


Applicants submit that these compounds fit the requirements of elected Group I which encompasses compounds according to the definition of formula I wherein the definition of  $R^1$  and  $R^2$  is restricted to " $R^1$  and  $R^2$  are selected from hydrogen ( $C_1 - C_4$ )

alkyl, (C<sub>2</sub> - C<sub>4</sub>) alkenyl and (C<sub>2</sub> - C<sub>4</sub>) alkynyl". Applicants also respectfully submit that the Examiner has misinterpreted the structural formula of the elected single disclosed species, a compound depicted in Example 14 on page 37 of the instant specification. In the instant office action, the Examiner stated the compound of Example 14 as "[2-(3,5-Dichloro-phenoxy)-6-fluoro-benzyl]-methyl-amine" corresponding to the following structural formula:



Applicants respectfully refer the Examiner to Example 14 on page 37 of the instant specification where it may be confirmed that the compound depicted in tabular form therein actually corresponds to:



Ex. 14, p.37

Applicants submit that the above compounds of claim 16 fall within Group I, in the same manner as the actually elected [2-(3,4-Dichloro-phenoxy)-5-fluoro-benzyl]-methyl-amine and further submit that the subject matter of claim 16 was erroneously withdrawn from consideration by the Examiner. Applicants respectfully request reinstatement of this subject matter to consideration as part of elected Group I. In the absence of such reinstatement applicants respectfully request clarification of the basis for

exclusion of the subject matter of claim 16. Applicants have included the subject matter of claim 16 in their further remarks pending resolution of this issue.

Claims 1 and 4 were amended to correspond to the compounds of elected Group I. Claims 7, 8 and 11 - 15 are canceled, without prejudice to applicants' rights to file a divisional on the non-elected subject matter, in accord with the restriction requirement. Applicants submit that claims 1 and 4, as amended, correspond to the matter of Group I and recite matter which is novel under 35 USC § 102 and unobvious under 35 USC § 103 and respectfully request withdrawal of the rejection of these claims.

#### **Rejection under 35 USC § 112, second paragraph**

The Examiner rejected claims 5, 6 and 9 under 35 USC § 112, second paragraph for indefiniteness due to recitation of the terms "particularly", and "preferably". Without prejudice to applicants' rights to the subject matter of the original claims and in the interests of facilitating prosecution, applicant has amended these claims in accord with the Examiner's suggestion by deleting the terms "particularly" and "preferably a human". Applicants submit that claims 5, 6 and 9 are in patentable condition under 35 USC § 112, second paragraph and respectfully request that the Examiner withdraw the rejection.

#### **Objections**

The Examiner objected to claims 5 and 9 because they have terms within parenthesis. Without prejudice and in the interests of facilitating prosecution applicant has amended these claims by deleting parenthesis and abbreviations of fully stated terms within parenthesis.

The Examiner objected to claims 1, 5 and 9 "because they contain acronyms such as "e.g." and "i.e." Without prejudice and in the interests of facilitating prosecution applicant has amended these claims by deleting these terms as suggested by the Examiner.

The Examiner objected to claims 2 - 4 and 10 as being dependent on a rejected base claim, but stated they "...would be allowable if rewritten in independent form...". Applicants submit that claim 1, as amended, is allowable and claims 2 - 4 and 10 dependent on claim 1 contain its novel and unobvious features and are therefore

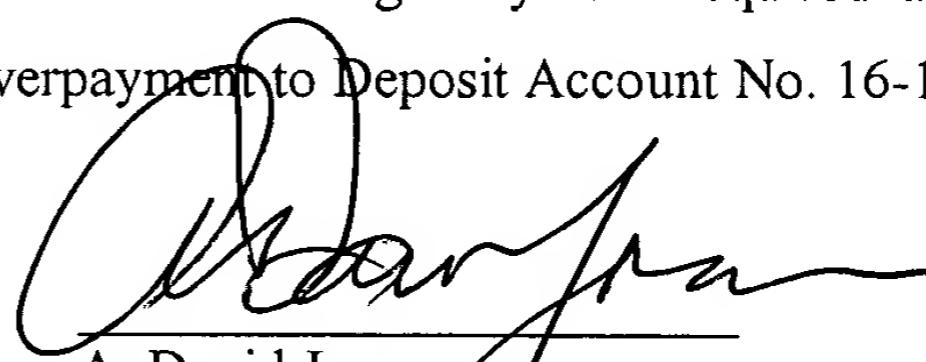


patentable in dependent form. Applicants respectfully request that the Examiner withdraw the objections to 1, 2 - 4, 5, 9 and 10.

In view of the amendments set forth herein and remarks above, the applicants respectfully submit that the pending claims are fully allowable, and solicits the issuance of a notice to such effect. If a telephone interview is deemed to be helpful to expedite the prosecution of the subject application, the Examiner is invited to contact applicant's undersigned attorney at the telephone number provided.

The Commissioner is hereby authorized to charge any fees required under 37 C.F.R. §§1.16 and 1.17 or to credit any overpayment to Deposit Account No. 16-1445.

Date: May 21, 2003



A handwritten signature in black ink, appearing to read "A. David Joran".

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